IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 35 OF 2007
IN
CRIMINAL WRIT PETITION NO. 2179 OF 2005

Shri Dilip Dattaram Agre ..Applicant

Vs.

State of Maharashtra and ors. ..Respondents

Mr. Prakash Naik for the applicant-org.Petitioner.
Mrs.A.S. Pai for the State.
Mr. S.V. Kotwal for respondent no.3.

CORAM: B.H. MARLAPALLE & R.S. DALVI,JJ.

Date : February 28, 2007.

P.C.:

1. Writ Petition No. 2179 of 2005 was filed by the present applicant praying for directions to transfer the investigation in C.R. No. 281 of 2005 registered with Worli Police Station to the G.B.C.B. C.I.D., Crime Branch, Mumbai and when this petition was heard by us on 2/2/2006 the learned APP, on instructions, had stated that the charge-sheet was already filed before the competent court on 17/1/2006 and/or 31/1/2006. We, therefore, disposed of the petition on 2/2/2006. Mr. Naik the learned counsel for the petitioner had raised the issue of return of

property and to that, the learned APP had replied that an application in that regard would be submitted before the court below by the officer concerned at the earliest possible.

2. It appears that after the petition was disposed off, the petitioner submitted an application on 20/6/2006 before the trial court for return of property. The learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai and In-charge of 29th Court passed an order on 11/7/2006 on the said application and held that it was not maintainable on the basis of the say filed by the learned APP. It was contended on behalf of the State that no property was seized from the telephone booth concerned and, therefore, there was no question of returning any such property.

3. In this application the applicant prays for directions to implement the order passed by us on 2/2/2006 disposing of Writ Petition No.2179 of 2005 with Writ Petition No.2313 of 2005. Our attention was also invited to the F.I.R. filed by the applicant himself on 14/8/2005 and in the same there is no

statement that in the telephone booth concerned some property of the complainant-applicant was lying at the relevant time or it was forcibly taken away by the accused. Under these circumstances, we are satisfied that no more directions, as prayed for, are required to be issued.

4. Hence, the application is rejected.

(R.S. Dalvi, J.) **(B.H. Marlapalle,J.)**